

SEP 29 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS5 ABELLANOSA, JOANNA,
6 et al.,

7 Plaintiffs,

8 v.

9 L&T INTERNATIONAL
10 CORPORATION,

Defendant.

Civil Action No. 05-0010

DECLARATION IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, Amalia Balcita, hereby declare as follows:

1. I am over the age of eighteen years old, have personal knowledge of the facts set forth herein, am competent to testify as to these facts if called as a witness in a court of law, and if called would testify as stated herein.
2. I am a citizen of the Republic of the Philippines. I was hired by L&T International Corporation as a nonresident contract worker, to work in the position of Hand Packer in 2004.
3. On or about February, 2004, I went to L&T to apply for an advertised job vacancy for hand packers. After filling-up and turning in the application form, I was told that L&T will call me for further information.
4. After about two weeks, an L&T personnel who identified herself as Baby Lopez, called me up for interview. Baby Lopez asked me to turn in all the required documents needed to process my employment papers.

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ORIGINAL

I.
MEDICAL FEES
(Physical Examination Fee
and Health Certificate Fee)

5. After I passed the interview, Baby Lopez asked me to complete the Consensual Transfer documents and have my employer complete and sign them, which I did. I gave the completed consensual transfer documents to Baby Lopez at the HR office. Baby Lopez then asked for and I gave her my health certificate which she noted had not yet expired. She told me that L&T would use my health certificate from my then employer.

II. CONTRACT SIGNING

6. My first non-resident contract was in 1994. Basically, annually since then, each year, my employers used and had me sign a standard form labor contract provided by DOL. I became familiar with the basic terms of the DOL standard form contract. A copy of such standard form contract is attached as Exhibit “2” to Plaintiffs’ Verified/Amended Opposition.

7. In 2004, when L&T HR staff Baby Lopez handed me their contract form, with only the signature page showing, and insisting that I sign, I had no reason to believe it was not the standard DOL form contract. Prior to signing this L&T contract form and at the time it was presented to me in the HR for signing, I was not given an opportunity to read the contract before signing it. When it was presented to me in the HR office, Baby Lopez just pushed the document through the counter-window with the pages turned back, showing only the signature page, and pointed to where I was to sign it, and said sign, which I did without reading it. There were

1 many other applicants present and waiting in line. The HR staff was rushing me and
2 other applicants by insisting that I and the other applicants I saw present, hurry up
3 and quickly sign, without delaying the document processing. From the mood and
4 way the HR staff was acting, I was made fearful that if I didn't just sign the signature
5 page as instructed, I would lose the job opportunity especially since none of the
6 other applicants I saw there held up the line by or took time to read the contract
7 document. I observed the HR staff acting the same way with other workers who
8 signed before and after my turn. Neither Baby Lopez, nor any one else, ever
9 showed me my contract document until the time and date they asked me (us) to sign
0 at HR. I was never given a copy of the L&T contract document I signed before my
1 termination on or about May 13, 2004. After my termination, I was surprised when
2 I later learned of some of the terms and conditions in L&T's self-styled contract.
3 Had I known that the L&T contract contained terms restricting me from being
4 employed with other competing companies in Saipan and allowing L&T to terminate
5 me at any time as a reduction in force, I would not have agreed to it or signed it.

III. PERFORMANCE EVALUATION

8. There was no individualized measurement or testing to determine my or each
9 Packer's individual performance or production. The only production measurement
10 or test was done by counting the output (production) from each of the different
11 lines of Packers. There was really no way for me as an individual packer to control
12 or show an increase in the number of products because I was just one individual on
13 the line with many others. In the packing section our work was performed by
14 groups of workers on so-called lines. The packages or items we were assigned to

1 work on often varied from day to day. Our Head Supervisor in the packing section
2 was Li, Zhi Min, who is a Chinese. When I and other Filipino workers tried to ask
3 her questions regarding our work she could not answer nor explain because she does
4 not speak english fluently. (*See* Defendant's Response to Plaintiffs' First Set of
5 Request for Interrogatories No. 49a).

6

7 IV.
8 TERMINATION

9 9. I was employed and worked for L&T International Corporation as a hand packer,
10 from on or about March 2004 to May 13, 2004, when I and other workers in the
11 hand packing section were summoned by the calling of our individual names over
12 the public address system, to report to the human resources (HR) office. I believe
13 and understand we were called in two batches, one about 3:00 p.m., and one about
14 5:00 p.m. (*See* Deposition of Jack Torres, page 97, lines 14-17).

15 10. I did not know why we were being called to come to HR. I thought that we
16 were being called regarding receipt of our anticipated ATM Cards that L&T had
17 previously given us and had us fill out an application for, as they told me and other
18 workers present, to make it easier and more convenient for (us) workers to access
19 and get our anticipated bi-weekly wage payments without having to stand in line
20 waiting for and trying to cash payroll checks. I was made more assured of my
21 continued employment and anticipated pay check by L&T having asked me and
22 other workers to set up these ATM accounts to facilitate our anticipated payroll
23 check payments.

24 11. As we arrived at the designated meeting room, I observed other workers, and
25 Corazon Quing, Malou Ernest and Rhodora Bernabe, known to us as HR staff,

1 were present at the May 13, 2004 meeting.

2 12. I did not see or hear Corazon Quing read or reading from any document or the
3 so-called "communication plan" as described and stated in Exhibit "A" attached to
4 the Declaration of Corazon Quing.

5 13. More specifically, I (we) were not told as stated by Corazon Quing that we the
6 workers, had the right to appeal our termination to the "Legal Department" of L&T
7 or to any one else.

8 14. Neither Malou Ernest, Corazon Quing nor any one else at the May 13, 2004
9 meeting, informed us, that the purpose of the so-called second check was "to cover
10 for 10 days pay in lieu of notice," as stated in paragraph 7, Declaration of Corazon
11 Quing. Additionally, L&T's own RIF policy required, as proposed RIF workers,
12 that I (we) "shall be given written notice of separation at least 15 days prior to the
13 effective date of separation, or severance pay in lieu of notice." (See Ex. "D," Jack
14 Torres' Deposition, and page 88, lines 6-8 and lines 20-24).

15 15. It was my honest belief that I and my co-workers were terminated on May 13,
16 2004 and that the termination was effective immediately on and from May 13, 2004,
17 because I (we) were told by HR staff at the May 13, 2004 meeting that today (May
18 13, 2004) was our last day of employment and they demanded that we give up and
19 turn in our company ID cards which were required and needed for company
20 employees to freely enter company premises; and more importantly, our I.D.s were
21 swipe-cards for the time-clocks so we could not clock in or out without them, in
22 addition to being required to "turn over any and all company properties in your
23 possession... on or before May 13, 2004" as stated in the Notice of Termination. See
24 Ex. "D," Defendant's Memorandum.

25 16. As a result I believed and felt that I was terminated and forced to stop working

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1 on May 13, 2004, the same date that the Notice of Termination (dated May 12, 2004)
2 was given to me. Hence, I was not given the required prior notice of termination
3 and/or of the RIF.

4 17. I and the other plaintiffs worked a set work schedule and shift, and worked
5 Monday through Saturday, seven (7) hours a day, six (6) days a week, for a total of
6 forty-two (42) hours each work week, which included two (2) hour overtime each
7 work week while employed at L&T.

8 18. At the time of my termination, no one from L&T offered to assist me in finding
9 other employment or told me that they would or could assist me in getting work
10 with affiliate companies of L&T.

11 V.
12 EMOTIONAL DISTRESS

13 20. When I was hired by L&T in March, 2004, I was so happy because L&T is
14 supposed to be a big and stable company. I thought L&T could give me a better job
15 with better benefits.

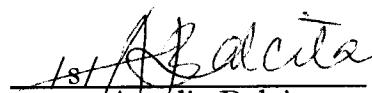
16 21. I became very emotionally upset and disturbed as a result of the termination of
17 my employment at L&T. I and the other workers present were crying and hugging
18 each other and trying to console one another.

19 22. When I arrived home on May 13, 2004, I broke down and was crying
20 hysterically and uncontrollably. I could not sleep. I kept on thinking about my
21 family and my very sick father. I am my family's bread winner. My father died
22 recently and my feelings of anger and disappointment toward L&T increased. I felt
23 I could have been in a position to help him with his medication had I been gainfully
24 employed and not unlawfully terminated as what L&T did to me. As a result of my
25 severe emotional distress, I started to have falling hair. I could not

eat nor sleep and I had difficulty breathing. I could not go to a doctor for a medical check up because I had no money.

28. Finally, I decided to marry my boyfriend. He helped me a lot during these desperate times in my life. But despite his goodness, I could not get myself to enjoy my married life. My capability to take pleasure in my life has been severely affected by the sudden termination of my employment by L&T. The termination left me physically and emotionally drained from the severe emotional distress caused thereby.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 28th day of September, 2006.



Amalia Balcita
Declarant

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